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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/772,785      | 01/30/2001  | James F. Ziech       | 60680-491           | 1549             |

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EXAMINER

TO, TOAN C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3616

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/772,785

Applicant(s)

ZIECH ET AL.

Examiner

Toan C To

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 4,5,9,10,12,16,17,20-22 and 26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☒ Claim(s) 4,5,9,10,12,16,20 and 22 is/are allowed.

6) ☒ Claim(s) 17, 21, 26 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 11 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3/24/04
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Berckhan (U.S. 3,243,007).

Berckhan discloses a sub-frame assembly with the following: a first and second cross members (23, 24) connected to a first and second side members (29, 30); wherein the first and second side members extending generally parallel to an axis extending in a longitudinal direction of the vehicle, wherein the first and second side members and the first and second cross members configured to receive first and second lower suspension control arms (60), and first and second upper suspension control arms (59); a strut rod (61) having a first end couple to the subframe and second coupled to a vehicle frame (11).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roethlisberger (U.S. 4,057,120) in view of Berckhan.

Roethlisberger disclose a subframe assembly configured to receive upper and lower suspension control arms, wherein the control arms form independent front suspension.

Roethlisberger fails to disclose a sub-frame assembly with the following: a first and second cross members connected to a first and second side members; wherein the first and second side members extending generally parallel to an axis extending in a longitudinal direction of the vehicle, wherein the first and second side members and the first and second cross members configured to receive first and second lower suspension control arms, and first and second upper suspension control arms.

Berckhan teaches a sub-frame assembly with the following: a first and second cross members (23, 24) connected to a first and second side members (29, 30); wherein the first and second side members extending generally parallel to an axis extending in a longitudinal direction of the vehicle, wherein the first and second side members and the first and second cross members configured to receive first and second lower suspension control arms (60), and first and second upper suspension control arms (59).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Roethlisberger by replacing his subframe assembly by the subframe assembly as taught by Berckhan in order to increase strength of the subframe and sufficiently support the front suspension of the vehicle.

5. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berckhan in view of Omundson et al (U.S. 6,357,769).

Berckhan discloses every element of the invention as discussed above except that frame rail is C-shaped.

Omundson et al teaches the invention wherein the frame rail is C-shaped. It would have been obvious design choice to one having ordinary skill in the art at the time the invention was made to modify the frame rail of Berckhan by using a C-shaped frame rail as taught by Omundson et al in order to reduce cost of material and lighten weight of the vehicle.

#### ***Response to Arguments***

6. Applicant's arguments filed March 24, 2004 have been fully considered but they are not persuasive.

In response to applicant argument that the torsion rod 61 of Berckhan does not correspond to the strut rod as claimed in the present invention, the examiner respectfully disagrees, because according to Merriam Webster's Collegiate Dictionary, "strut rod" is defined as "a structural piece designed to resist pressure in direction of its length", in this case, the torsion rod 61 is capable of resisting pressure in direction of its length, therefore interpretation of torsion rod 61 corresponding to the "strut rod" as claimed is considered proper.

#### ***Allowable Subject Matter***

7. Claims 4-5, 9-10, 12, 16, 20, and 22 are allowed.

**Conclusion**

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (703) 306-5951. The examiner can normally be reached on Mon-Fri (8:00-5:00).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

To,T

June 23, 2004

  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600